

§ 1706.4

working is expected to exceed \$10,000, and in each other case where the contracting officer for the Board deems it appropriate to make the requirements of this part applicable to a subcontractor or consultant proposed for, or working on, a Board contract. The certificates or disclosures submitted by offerors or contractors pursuant to this part shall include certificates or disclosures from all subcontractors and consultants to contractor or offerors in those cases where this part applies by its terms to such subcontractors or consultants or has been applied to such persons by the contracting officer. Contractors and offerors shall assure that contract clauses giving effect to this § 1706.3(b), satisfactory to the contracting officer, are included in subcontracts and consultant agreements of any tier involving performance of work under a prime contract covered by this part.

[57 FR 44652, Sept. 29, 1992; 58 FR 13684, Mar. 12, 1993]

§ 1706.4 Head of the contracting activity.

The head of the contracting activity for the Board shall be the General Manager.

§ 1706.5 General rules.

(a) *Award of Contracts.* Contracts shall generally not be awarded to an offeror:

(1) For any services where the award would result in the offeror evaluating products or services it has provided to the Board, is then providing to the Board, or is then offering to provide for the Board;

(2) For evaluation activities or research related to the Board's oversight of defense nuclear facilities, where the award would result in the offeror evaluating products or services it has provided, is then providing, or is then offering to provide to DOE or to contractors or subcontractors for defense nuclear facilities; or

(3) For any other services (the acquisition of which is otherwise covered by this part), where the Board has determined, pursuant to § 1706.7, that an actual or potential OCI exists and cannot be avoided, and the Board does not waive that OCI. Paragraphs (a) (1) and

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(2) of this section also apply when award would result in evaluation of products or services of another entity where the offeror has been, is, or would be substantially involved in the development of the product or performance of the service, or has other substantial involvement regarding the product or services.

(b) *Subsequent related contracts.* (1) A Board contractor under a Board contract shall normally be ineligible to participate in Board contracts or subcontracts that stem directly from the contractor's performance of work under a previous Board contract, where the Board determines that an OCI would exist because:

(i) The expectation of receiving the subsequent contract is likely to diminish the contractor's capacity to give impartial assistance and advice, or otherwise result in a biased work product; or

(ii) An offeror on the subsequent contract would have an unfair competitive advantage by virtue of having performed the first contract.

(2) If a contractor under a Board contract prepares a complete or essentially complete statement of work or specifications in the performance of a contract, the contractor shall be ineligible to perform or participate in the initial contractual effort that is based on such statement of work or specifications. The contractor shall not incorporate its products or services in such statement of work or specifications.

(c) *National Laboratory personnel.* The Board may engage personnel of the National Laboratories who have expertise needed by the Board in the performance of its oversight responsibilities, provided that prior to each such engagement, the Board determines either:

(1) That the nature of work performed by such personnel for DOE does not pose actual or potential OCIs with respect to the particular work covered by the Board contract; or

(2) That such engagement is in the Government's best interests and that a waiver should be granted pursuant to § 1706.8. In all cases involving National Laboratory personnel, notice of the circumstances of the contract, stating the